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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
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**IN THE MATTER OF THE COMPLAINT  
OF ESCHELON TELECOM OF  
ARIZONA, INC. AGAINST QWEST  
CORPORATION**

**DOCKET NO. T-03406A-06-0257**  
**DOCKET NO. T-01051B-06-0257**

**QWEST CORPORATION'S PROPOSED  
SCHEDULE AND INTERIM PROPOSAL  
TO ALLOW EXPEDITES**

On May 23, 2006, the parties participated in a procedural conference for the purpose of setting a schedule in the case. Qwest informed the Administrative Law Judge ("ALJ") that its lead hearing counsel, Charles W. Steese, had conflicts that prohibited a hearing before January 2007. Eschelon asked for an immediate hearing, but recognized that such a hearing may not be practicable. As a result, the parties discussed utilizing interim procedures that would allow Eschelon to order unbundled loops on an expedited basis for the duration of the proceeding without prejudicing either party. The parties differed on the appropriate interim measure. As a result, the ALJ asked the parties to submit a proposal to the ALJ for consideration. The ALJ also asked each party to submit a proposed schedule. Qwest hereby submits its proposed interim solution and schedule.

1 I. AS AN INTERIM SOLUTION, QWEST PROPOSES USING THE CURRENT PROCESS  
2 APPROVED IN THE CHANGE MANAGEMENT PROCESS FOR EXPEDITES, WITHOUT  
3 REQUIRING ESCHOLON TO EXECUTE AN AMENDMENT TO ITS ICA.

4 Eschelon's complaint boils down to the fact that Eschelon does not want to pay Qwest  
5 \$200 per day to expedite orders for unbundled loops. Eschelon takes this position knowing that  
6 its own ICA gives Qwest the right to bill for expediting orders. Specifically, the ICA provides  
7 that when Eschelon "requests a due date earlier than the standard due date interval, then expedite  
8 charges may apply." ICA at Att. 5, §3.2.4.2.1. Moreover, Eschelon takes its position knowing  
9 that the Florida Commission approved this very rate in a virtually identical docket. *In re Joint*  
10 *Petition by NewSouth et al.*, 2005 Fla. PUC LEXIS 634, \*147-151, Order No. PSC-05-0975-  
11 FOF-TP (Fla. PSC Oct. 11, 2005). Nonetheless, Eschelon's complaint argues that it should not  
12 have to amend its ICA and be bound to pay \$200 per day to expedite orders for unbundled loops,  
13 unless ordered by the Commission.

14 Qwest's proposal is to use the current expedites process created in the Commission-  
15 approved Change Management Process ("CMP"), but temporarily forego the requirement that  
16 Eschelon execute an amendment to its ICA. This will alleviate Eschelon's concern during the  
17 pendency of the proceeding, yet give Eschelon the ability to request and obtain expedited due  
18 dates for unbundled loops.

19 Understanding the Commission-approved CMP expedite process is instructive:

- 20 • Covad, another CLEC, requested the change to the expedite process. The entire industry,  
21 including Eschelon, then discussed the expedite process in CMP between February 2004  
22 and July 2005, when the new process was approved. Qwest then gave all CLECs until  
23 January 2006 to implement the process. Hundreds of CLECs have done so; the lone hold  
24 out is Eschelon.
- 25 • Qwest is utilizing the current process to expedite orders for unbundled loops on behalf of  
26 hundreds of CLECs. Creating a one-off process for Eschelon is not practical or necessary.  
The purpose of the CMP is to facilitate the design and implementation of *uniform* processes  
to ensure that Qwest is best equipped to provide *consistent* service to its wholesale  
customers. Eschelon's proposal would be a one-of-a-kind process, and would create  
confusion and make it difficult for Qwest to perform in the manner that Eschelon hopes and  
expects.

- 1
- 2 • The current CMP approved expedite process allows Eschelon to request an expedited due
- 3 date for any unbundled loop, and Qwest will expedite the order so long as it has the
- 4 resources to do so. Under this process, Eschelon does not have to justify its reasons for
- 5 requesting the expedited date. This greatly expands Eschelon's ability to obtain an
- 6 expedited due date. The current process is streamlined, simple and avoids arguments about
- 7 whether an expedite is appropriate.

8 Eschelon is asking the ALJ to implement an outdated expedite process. The old process

9 required Escheon to explain why an expedite was justified based upon a set of defined rationale;

10 for example, by showing the order presented a "medical emergency." Qwest would then analyze

11 the request and conclude either that it agreed or disagreed with Eschelon's position that the

12 request fell within one of the accepted categories for an expedite. This resulted in debate and

13 discussion about whether the standard was satisfied. However, in the end, Qwest's contract with

14 Eschelon gave it the right to refuse to expedite an order. ICA at Att. 5, §§3.2.2.13, 3.2.4.3.1 &

15 3.2.4.4. Qwest's proposal does away with this debate, applies uniform processes, provides more

16 certainty, and gives Eschelon more freedom in requesting expedited due dates.

17 Despite the added benefits of the current process, Eschelon wants to use the old

18 argumentative process claiming it will make it easier for the ALJ to perform a true up after the case

19 concludes. Qwest disagrees. A true up will be simpler utilizing Qwest's proposal because:

- 20 1. At the end of the proceeding, if Qwest is successful, there would be no need for a
- 21 true-up. Eschelon would simply need to execute an amendment to the ICA; and
- 22 2. At the end of the proceeding, if Eschelon is successful, Eschelon could identify the
- 23 orders it believes merited an expedite under the old process. Qwest could then
- 24 respond to Eschelon with its position on whether the situation was, for example, a
- 25 medical emergency. (This is exactly what Eschelon proposes would occur for each
- 26 order anyway, and this process is avoided completely if Qwest is successful.) A
- true-up could be performed by the parties based on this exchange. If either party
- took significant issue with the true-up, however, they could take the disputed order
- to the ALJ so she could look at the facts and independently determine whether an
- expedite was warranted.

As Eschelon stated during the Procedural Conference, expedite requests under the old process were

the exception, not the rule. Thus, the true up will concern only a few orders.

1     **II.     QWEST'S PROPOSED SCHEDULE FOR THE DOCKET.**

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3           As Qwest informed the ALJ during the Procedural Conference, lead hearing counsel

4 currently has the following trial dates set: (1) July 2006: 6-7 day jury trial in federal court in Sioux

5 City, Iowa; (2) September 2006: 5-7 day AAA arbitration proceeding in Denver, Colorado; and, (3)

6 October 30, 2006: Six week jury trial in federal court in Boston, Massachusetts. Furthermore, the

7 parties have already noticed each other of their intent to take at a minimum a total of seven (7)

8 depositions in this matter. Thus, a hearing before January 2007 is essentially not possible.

9           Qwest therefore recommends a hearing in late January 2007. Qwest proposes:

- 10           1.     August 15, 2006: Eschelon's Direct Testimony
- 11           2.     October 17, 2006: Qwest's Responsive Testimony
- 12           3.     December 1, 2006: Eschelon's Rebuttal Testimony
- 13           4.     December 31, 2006: Discovery Deadline
- 14           5.     January 29-31, 2007: Hearing

15       This schedule will allow discovery after each round of testimony.

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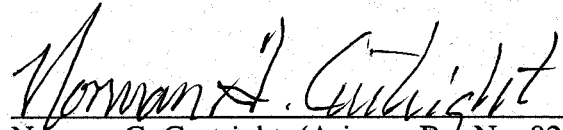
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3 RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of June, 2006.

4 Attorneys for Defendant

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7 Norman G. Curtright (Arizona Bar No. 022848)  
8 Qwest Corporate Counsel  
9 Qwest Corporation  
10 20 E. Thomas Rd., 16<sup>th</sup> Floor  
11 Phoenix, Arizona 85012  
12 Tel: (602) 630-2187  
13 Fax: (303) 383-8484  
14 Email: [norm.curtright@qwest.com](mailto:norm.curtright@qwest.com)

15 Charles W. Steese (Arizona Bar No. 012901)  
16 STEESE & EVANS, P.C.  
17 6400 South Fiddlers Green Circle, Suite 1820  
18 Denver, Colorado 80111  
19 Tel: (720) 200-0676  
20 Fax: (720) 200-0679  
21 Email: [csteese@s-elaw.com](mailto:csteese@s-elaw.com)

22 Melissa K. Thompson (Pro Hac Motion Approved)  
23 Qwest Services Corporation  
24 1801 California Street, 10th Floor  
25 Denver, Colorado 80202  
26 Voice: 303-383-6728  
Fax: 303-896-3132  
Email: [melissa.thompson@qwest.com](mailto:melissa.thompson@qwest.com)

Attorneys for Qwest Corporation

1 ORIGINAL and 13 copies hand-delivered  
2 for filing this 2nd day of June, 2006, to:

3 Docket Control  
4 ARIZONA CORPORATION COMMISSION  
5 1200 West Washington Street  
6 Phoenix, AZ 85007

7 Copy of the foregoing hand-delivered  
8 this 2nd day of June, 2006 to:

9 The Honorable Lyn Farmer  
10 Chief Administrative Law Judge  
11 Hearing Division  
12 Arizona Corporation Commission  
13 1200 West Washington  
14 Phoenix, Arizona 85007

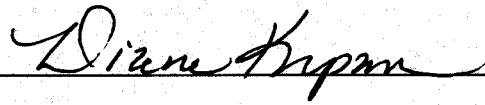
15 Christopher C. Kempsey, Esq.  
16 Chief Counsel, Legal Division  
17 Arizona Corporation Commission  
18 1200 West Washington  
19 Phoenix, Arizona 85007

20 Ernest G. Johnson, Esq.  
21 Director, Utilities Division  
22 Arizona Corporation Commission  
23 1200 West Washington  
24 Phoenix, Arizona 85007

25 Copy of the foregoing mailed  
26 this 2nd day of June, 2006 to:

Michael W. Patton  
J. Matthew Derstine  
ROSHKA DEWULF & PATTEN, PLC  
One Arizona Center  
400 East Van Buren Street, Suite 800  
Phoenix, Arizona 85004

1 Karen L. Clauson  
2 Eschelon  
3 730 2<sup>nd</sup> Avenue South, Suite 900  
4 Minneapolis, Minnesota 55402

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